



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**[RTID 0648-XB579]**

#### **Endangered and Threatened Species; Take of Anadromous Fish**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; Issuance of one Endangered Species Act (ESA) Incidental Take Permit and one ESA Enhancement of Survival Permit; Availability of the Final Environmental Assessment and Finding of No Significant Impact.

**SUMMARY:** Notice is hereby given that NMFS has issued one Incidental Take Permit and one Enhancement of Survival Permit to Sierra Pacific Land & Timber Company (SPL&T) for the Sierra Pacific Industries Habitat Conservation Plan (HCP) and Safe Harbor Agreement (SHA). The HCP/SHA was submitted pursuant to the Endangered Species Act (ESA) of 1973, as amended. NMFS has also prepared a Final Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) under the National Environmental Policy Act (NEPA) associated with NMFS' issuance of the Permits for the HCP/SHA. The Permits authorize incidental take of ESA-listed species as set forth in the HCP/SHA for a 50-year period.

**DATES:** The Incidental Take Permit (No. 24396) and the Enhancement of Survival Permit (No. 24397) were issued to SPL&T on September 29, 2021. Subsequent to issuance, the necessary countersignatures by the applicants were received on October 4, 2021. The expiration date of the permits is October 4, 2071. The issued permits are subject to certain conditions set forth therein.

**ADDRESSES:** The permits, the Final EA and FONSI, and other related documents available on the NMFS West Coast Region website at:

<https://www.fisheries.noaa.gov/action/habitat-conservation-plan-and-safe-harbor-agreement-sierra-pacific-industries-forestland>.

**FOR FURTHER INFORMATION CONTACT:** Amanda Cranford, Sacramento, CA, at phone number: (916) 930-3706, or via e-mail: *Amanda.Cranford@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**ESA-Listed Species Covered in This Notice**

Chinook salmon (*Oncorhynchus tshawytscha*), (Evolutionary Significant Unit [ESU]):

Central Valley spring-run ESU, and

Sacramento River winter-run ESU

Coho salmon (*O. kisutch*), (ESU):

Southern Oregon/Northern California Coast ESU

Steelhead (*O. mykiss*), (Distinct Population Segment [DPS]):

California Central Valley DPS

**Background**

SPL&T is the largest private forest landowner in the state of California, with ownership currently encompassing approximately 1.79 million acres of timberland throughout the northern and central portions of the state. Sierra Pacific Industries (SPI) is the authorized representative and manager of SPL&T lands. Rivers and streams on portions of SPL&T lands in the Trinity River and Sacramento River basins provide habitat for anadromous salmonids, including species listed under the ESA. SPI's forestland management activities have the potential to adversely affect fish species and their habitats that are listed, or may be listed, under the ESA. Proposed activities under the permits include those activities necessary to implement the forestland management program, in addition to certain mitigation and conservation measures identified in the HCP/SHA.

Section 10(a)(1)(B) of the ESA authorizes NMFS to issue an Incidental Take Permit to non-Federal parties for the potential incidental taking of endangered and threatened species. The HCP provides an assessment of impacts, measures to monitor, minimize, and mitigate for those impacts, and procedures to account for unforeseen or extraordinary circumstances. Under the HCP, SPI will follow the Z'Berg-Nejedly Forest Practice Act and relevant public resource codes, including the current California Forest Practice Rules (CFPRs) for each year of the permit period. SPI fully complies with the CFPRs, which set prescriptive standards for natural resource protection minimization measures for all activities. The CFPRs set even higher standards for activities in Anadromous Salmonid Protection watersheds. SPI will also implement conservation measures described in the HCP that are designed to protect riparian resources and water quality.

The section 10(a)(1)(B) Incidental Take Permit also covers three species that are not currently listed under the ESA: Central Valley fall/late fall-run Chinook salmon (*O. tshawytscha*) ESU, which is designated as species of concern by NMFS; Upper Klamath/Trinity Rivers Chinook salmon (*O. tshawytscha*) ESU, which is currently petitioned for listing as threatened or endangered under the ESA and endangered under the California Endangered Species Act; and Klamath Mountains Province steelhead (*O. mykiss*) DPS, which has no current regulatory status. The non-listed species identified above do not currently have protective federal regulations against take, and a federal permit is not needed to incidentally take them. However, there may be a change in listing status during the permit term. If any of the above-mentioned non-listed species are listed as threatened or endangered in the future, the section 10(a)(1)(B) Incidental Take Permit would become effective immediately for these species.

The incidental taking identified in the SHA is authorized under a section 10(a)(1)(A) Enhancement of Survival Permit. The SHA addresses potential impacts

resulting from SPI's timber harvest activities on SPL&T lands in the Sacramento and Trinity River basins upstream of currently impassable dams, where NMFS is proposing to reintroduce populations of ESA-listed salmonids. The purpose of the SHA is to provide incentives for non-Federal property owners to voluntarily conduct beneficial management activities that either support or attract ESA-listed species. The beneficial management activities proposed under the SHA will improve habitat within the SHA Plan Area by using SPI's Road Erosion and Sediment Delivery Index (READI) model to identify sources of sediment from road runoff. Road watercourse crossing improvements will be applied, such as new drains and road surfacing, to reduce sediment delivery to the maximum extent practicable. SPI will also support ESA-listed species reintroduction efforts proposed by NMFS, which is expected to contribute towards the recovery of ESA-listed anadromous fish populations in the Sacramento River and Trinity River basins. These actions are expected to provide a net conservation benefit for ESA-listed salmonids.

On June 19, 2020, NMFS published a Notice of Receipt and Notice of Availability in the **Federal Register** (85 FR 37070; June 19, 2020) asking for public comments on the draft HCP/SHA and the associated draft NEPA EA. NMFS received three letters from the public expressing support for the HCP/SHA and the proposed issuance of the permits. No changes were made in response to the comments received, as none were suggested or requested by the public.

### **Authority**

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines "take" to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits under limited circumstances to take listed species. Section 10(a)(1)(B) of the ESA and implementing regulations (50 CFR 222.307) provide

for authorizing take of listed species, incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Enhancement of Survival permits are issued in accordance with Section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222.308). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Dated: November 10, 2021.

**Angela Somma,**

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*Office of Protected Resources, National Marine Fisheries Service.*

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